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IN THE UNITED STATES BANKRUPTCY COURT
FOR THE NORTHERN DISTRICT OF TEXAS
AMARILLO DIVISION

In Re:	§	
	§	
AMERICAN HOUSING FOUNDATION, INC.,	§	CASE NO. 09-20232-11
	§	CHAPTER 11
<i>Debtor,</i>	§	

Walter O'Cheskey, As Chapter 11 Trustee,	§	
	§	
<i>Plaintiff and Counter-Defendant,</i>	§	Adversary No. 10-02018-rlj
	§	
v.	§	
	§	
Terrill J. Horton,	§	
	§	
<i>Defendant and Counter-Plaintiff.</i>	§	

**TERRILL J. HORTON'S OBJECTION TO
TRUSTEE'S MOTION FOR ENTRY OF SCHEDULING ORDER**

To the Honorable Robert L. Jones, United States Bankruptcy Judge:

Comes Now Defendant, Terrill J. Horton, and files his objections to the Trustee's Motion for Entry of Scheduling Order previously filed on February 18, 2011 (Docket 31). The facts and bases of Horton's objections are as follows:

1. This adversarial proceeding has been pending for many months and the parties and their counsel are fully informed of the issues.

2. There has been extensive discovery of the relevant facts and issues in this case which has involved multiple counsel and substantial expense.

3. The Court has already heard motions and detailed proffers concerning this matter in the 3018 proceeding.

4. With regard to the scheduling for this proceeding, this Court's order of January 21, 2011 states:

"...the Court has previously issued its order setting trial which contains the Court's alternative scheduling order. The alternative scheduling order is basically the default scheduling order for discovery in the event the parties fail to submit a scheduling order. The Court will direct that if the parties choose to submit a proposed scheduling order, such scheduling order must be submitted to the Court within thirty (30) days of entry of this order. . . ."

(Docket No. 23).

5. Horton was satisfied with the Court's alternative scheduling order and has acted according to its deadlines. Being satisfied with the alternative scheduling order, Horton did not choose to submit or agree to a scheduling order, so the parties did not submit a proposed scheduling order to the Court.

6. In accordance with the alternative scheduling order, Horton disclosed his expert witness and his report on February 13, 2011 as required by the Court's alternative scheduling order.

7. Horton strenuously objects to the Trustee's suggestions in paragraph "1" of its proposed scheduling order in which he urges this Court to deem all prior discovery VOID! This flies in the face of the arguments the Trustee and his own counsel made in favor of consolidation. There is no reason to "deem void" all prior discovery and require the parties to incur the attorney time and expense of having to redo written and oral discovery. The Trustee has not even bothered to offer any reason to have this Court require the parties to incur "duplication, redundancy and excessive costs" which the Court specifically ordered the parties to avoid by its order of January 21, 2011.

8. Is testimony concerning Mr. Horton's claim "void" because it was obtained originally for use in a Rule 3018 estimation hearing? Are documents now "void" because they were disclosed in connection with the Rule 3018 motion? The request to "deem void" discovery, testimony and evidence concerning the very issues which are the subject of the Trustee's claims serves no purpose other than generating "duplication, redundancy and excessive costs." It certainly does not serve to disclose the truth and resolve issues and disputes in a reasonable and cost effective matter or advance the interests of the unsecured creditors.

9. Horton respectfully requests this Court deny the Trustee's motion thereby leaving the alternative (default) schedule, which Horton has relied on, in place.

10. Finally, Horton would direct the Court to the 3018 proffers submitted by the parties to demonstrate that there has been extensive discovery in this matter, including

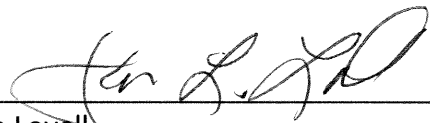
depositions by the parties and experts. The facts and issues are clear. It is now time to proceed to trial based on the schedule the Court clearly put in place on January 21, 2011.

WHEREFORE, Horton requests that Trustee's Motion for Entry of Scheduling Order be Denied.

DATED this 23 day of February, 2011.

Respectfully submitted,

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By: 
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CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the foregoing document was delivered, as certified below, on this 23 day of February, 2011, to:

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